

# **State of Indiana**

## **Certificate of Compliance by Non-Participating Manufacturer Regarding Escrow Payment**

### GENERAL INFORMATION

#### **What is the definition of a tobacco product manufacturer?**

- Any entity that directly manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States including cigarettes that are intended to be sold in the United States through an importer;
- The first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or
- A successor of any entity described above.

*Any product containing the Surgeon General's warning is intended to be sold in the United States.*

#### **Who is required to file a certificate of compliance?**

Any tobacco product manufacturer that:

- (1) sells cigarettes within the State of Indiana (whether directly or through any distributor, retailer, or similar intermediary) and
- (2) has not become a participating manufacturer in the tobacco Master Settlement Agreement (the MSA).

*If you satisfy these requirements, you must file a certificate of compliance to report the units of cigarettes manufactured by you and sold in the State of Indiana and pay the amount calculated into your qualified escrow fund. You may use this Model Certificate of Compliance to fulfill that obligation.*

#### **What is a qualified escrow fund?**

A non-participating manufacturer required to file a certificate of compliance must establish a qualified escrow fund. This means an escrow arrangement with a U.S. federal or U.S. state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1,000,000,000, where such arrangement (1) requires that the financial institution hold the escrowed funds' principal for the benefit of the State of Indiana (and possibly other "Releasing Parties" as defined in the MSA) and (2) prohibits the non-participating manufacturer from using, accessing, or directing the use of the funds' principal except as consistent with Ind. Code § 24-3-3 et seq.

#### **When is a certificate of compliance due?**

Certificates of compliance are due on or before April 30<sup>th</sup> of the year following the sales year in question.

*A certificate of compliance is due April 30, 2022, for sales made January 1 – December 31, 2021.*

**When must I make my escrow payment?**

You must deposit all escrow payments into your qualified escrow fund on or before April 15<sup>th</sup> of the year following the sales year in question. After you have made your deposit, forward a copy of your receipt or other proof of deposit from your financial institution to the Office of the Attorney General of the State of Indiana, along with a signed and notarized certificate of compliance.

**SPECIFIC INSTRUCTIONS:**

Part 1: Manufacturer's Identification. -- Write your name, address, telephone and fax number, and email address.

Part 2: Sales Year. -- Write the sales year.

Part 3: Units Sold. -- Write the number of individual cigarettes manufactured by you and sold during the sales year in Indiana.

Part 4: Escrow Rates and Payments. -- Multiply the units sold by the per-stick rate (adjusted for inflation) for the sales year and write the result as your subtotal. These rates and inflation adjustment rates can be found in the Model Certificate of Compliance.

Part 5: Financial Institution. -- Write the name and address of the financial institution holding your escrow account. Include your escrow account number. Also write the total cumulative amount currently in your escrow account for the benefit of Indiana.

Part 6: Signature. -- An authorized notary public must also sign and date this certificate of compliance.

Submission: send an electronic copy to [tobacco@atg.in.gov](mailto:tobacco@atg.in.gov) along with the original mailed to

**State of Indiana  
Office of the Attorney General  
Attn: TOBACCO ENFORCEMENT  
302 West Washington Street  
IGC-South, 5th Floor  
Indianapolis, IN 46204**

# State of Indiana

## Certificate of Compliance by Non-Participating Manufacturer Regarding Escrow Payment

### Part 1: Manufacturer's Identification

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

### Part 2: Sales Year

The Year of Sales for this Certificate of Compliance is: \_\_\_\_\_ (please contact our office if you are certifying for a year other than 2021)

### Part 3: Units Sold in Indiana in 2021

Number of individual cigarettes and "roll-your-own" tobacco (.09 ounces of roll-your-own is counted as a cigarette) sold in Indiana by the Manufacturer: \_\_\_\_\_

### Part 4: Escrow Rates and Payments

The appropriate deposit subtotal is \$ \_\_\_\_\_  
(Multiply units sold in Part 3 by 0.0394647 and write that amount here)

*Indiana Code §24-3-3-2 requires payments to be "adjusted for inflation," in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement." Each year, this figure increases by 3% or the actual inflation rate, whichever is greater. In 2021, the actual rate of inflation was 7.03640%. The 2022 payment for 2021 sales is the cumulative adjusted for inflation rate which is 109.38187%. Multiplying the base escrow deposit amount, \$0.0188482, by the cumulative adjusted for inflation rate of 109.38187%, equals the cumulative inflation adjustment amount of \$0.0206166. Adding the base escrow deposit amount, \$0.0188482, to the cumulative inflation adjustment amount, \$0.0206166, equals \$0.0394647, the per/stick rate for 2021.*

**Note: Please attach a copy of your current executed escrow agreement, and for all deposits, attach copies of your receipt or other proof of deposit from your financial institution.**

### Part 5: Financial Institution

Name of Institution: \_\_\_\_\_

Address: \_\_\_\_\_

Escrow Acct No: \_\_\_\_\_

Total Amt. Held for the State of Indiana: \_\_\_\_\_

**Part 6: Signature**

Under penalties for perjury, I state that, to the best of my knowledge, all of the information contained in this Certificate of Compliance is true and accurate.

*This certificate of compliance must also be signed and dated by an authorized notary public.*

Name of Authorized Agent: \_\_\_\_\_ Title: \_\_\_\_\_

Signature of Authorized Agent: \_\_\_\_\_ Date: \_\_\_\_\_

Subscribed and sworn to before me on this date: \_\_\_\_\_

Signature of Notary Public: \_\_\_\_\_ City or County of \_\_\_\_\_

My Commission expires: \_\_\_\_\_

**Mail this certificate of compliance to:**

**State of Indiana  
Office of the Attorney General  
Attn: TOBACCO ENFORCEMENT  
302 West Washington Street  
IGC-South, 5th Floor  
Indianapolis, IN 46204**

**With an electronic copy sent to [tobacco@atg.in.gov](mailto:tobacco@atg.in.gov).**